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PATENT

Customer No. 22,852  
Attorney Docket No. 5636.0030

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Akira Ishibashi et al.

Serial No.: 09/210,539 ✓

Filed: December 14, 1998 ✓

For: FORMED ARTICLE OF  
BIODEGRADABLE RESIN

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)  
) Group Art Unit: 1713

) Examiner: K. Egwim  
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JUN 19 2002  
TECHNOLOGY CENTER 1700

Commissioner for Patents  
Washington, DC 20231

Sir:

DECLARATION UNDER 37 C.F.R. § 1.131

I, Yoshifumi Miyajima, state that I am one of the named applicants of the above-identified application and am one of the co-inventors of the subject matter described and claimed therein. On or before October 31, 1997, we had completed, in Japan, the invention as described and claimed in the above-identified application as evidenced by the following attached documents:

1. The invention report dated September 17, 1997 which forms the basis of Japanese Patent Application No. 9-362506, from which the present application claims priority under 35 U.S.C. § 119.
2. The invention report dated October 31, 1997 which forms the basis of Japanese Patent Application No. 9-366176, from which the present application also claims priority under 35 U.S.C. § 119.

These invention records indicate that the claimed invention was reduced to practice before the effective filing date of the Tsai et al. reference, U.S. Patent No. 5,910,545 which is October 31, 1997. Tsai et al. does not claim the same patentable

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invention as claimed in the present application, i.e., a fastener. Tsai et al. teaches and claims a thermoplastic composition useful in making multi-component fibers or non-woven absorbent structures.

The invention report dated September 17, 1997, provides examples of fasteners that were produced prior to the effective date of the Tsai et al. reference. Specifically, this invention report exemplifies fasteners formed of a biocomponent polymer having a continuous phase comprising at least one aliphatic polyester selected from the group consisting of polybutylene succinate and polyethylene adipate, and a dispersed phase of polylactic acid, where the polylactic acid is dispersed in the form of particles having diameters not more than 9  $\mu\text{m}$ .

The second invention report dated October 31, 1997, also provides examples of fasteners that were produced prior to the effective date of the Tsai et al. reference. Specifically, this invention report exemplifies fasteners formed of a biocomponent polymer having a continuous phase comprising (a) at least one aliphatic polyester selected from the group consisting of polybutylene succinate and polyethylene adipate, and (b) an inorganic filler dispersed in the aliphatic polyester, and a dispersed phase of polylactic acid.

As evidenced by the attached documents, the present invention was reduced to practice before the effective date of the Tsai et al. reference.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section

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1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Dated: May 2, 2002

By: Yoshifumi Miyajima  
Yoshifumi Miyajima

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